In the High Court of Punjab and Haryana, Chandigarh

C.W.P. No. 17720 of 2006

Date of Decision: 10.11.2006

Balbir Singh

…Petitioner

Versus

Union of India and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE M.M.S. BEDI

PRESENT: Mr. J.S. Thind, Advocate,
for the petitioner.

JUDGMENT

M.M. KUMAR, J. (Oral)

The subject matter of challenge in the instant petition is order dated 3.6.2001 (P-1) and order dated 10.12.2001 (P-3) terminating the services of the petitioner. The aforementioned orders have been passed by the Officiating Commandant, 140 Bn, Border Security Force, Bhikhiwind, Amritsar and the Government of India, Ministry of Home Affairs, Director General of Border Security Force,

New Delhi, respectively. The petitioner has earlier filed a civil suit being Civil Suit No. RBT 211 of 2002, instituted on 16.10.2002. In the aforementioned civil suit, the order dated 10.4.2001 and the aforementioned two orders were challenged. However, the civil suit was got dismissed as withdrawn without obtaining any permission to file a fresh suit or a writ petition. The order of the Additional Civil Judge (Senior Division), Amritsar, passed on 5.2.2005 (P-7) reads that 'Plaintiff has made a statement, withdrawing the present suit. Hence, the present suit is dismissed as withdrawn. File be consigned to the record room'.

After hearing the learned counsel we are of the considered view that the instant petition even after withdrawal of the civil suit is not maintainable as the petitioner has not been granted any permission to file a fresh suit or writ petition on the same cause of action. It is settled by a Division Bench of this Court that after filing the civil suit, the petitioner cannot file a writ petition even if he has withdrawn the earlier suit without specific permission to file a suit or a petition. In this regard reference may be made to the judgment of this Court in the case of **Darshan Singh v. State of Punjab, 1999 (1) RSJ 730**. Therefore, we refuse to entertain the petition.

Dismissed.

(M.M. KUMAR)
JUDGE

(M.M.S. BEDI)
JUDGE

November 10, 2006

Pkapoor